

REMARKS/ARGUMENTS

In the specification, the several paragraphs have been amended to correct minor editorial problems, to be more consistent in the labeling of different elements, and to conform better with PTO rules. It is believed that no new subject matter is being introduced through these specification changes.

In amended Figure 4, the previously omitted element numeral 440 has been added. Similarly, amended Figure 6A seeks to add additional language, as supported in the specification, to differentiate between identically labeled elements 660 and 670.

Claims 1, 7-14, and 25-38 (with independent claims 15-24) remain in this application. Claims 1-6 and 15-24 have been canceled.

It is believed that the claims as amended address every ground for rejection contained in the Office Action. Specifically, the claims have been amended to address the objections and the rejections under 35 USC §101, 112. Specifically, the claims have been amended to remove editorial problems and to limit the claimed invention to solely technical, statutory subject matter, and thus, the amended claims sufficiently clarify the subject matter of the present invention.

In response to the rejection of claim 1, 2, and 4 under 35 USC 102(e) in view of U.S. Patent No. 6,029,139 issued to Cunningham et al ("Cunningham") and to the rejection of the remaining claims under 35 USC 103(a) as being obvious in view of Cunningham by itself or in combination with various other references, including Garg, Naert and Weverbergh, Ouimet, Brodie and de Kluyver, and Singh, it is believed that the amended claims sufficiently limit the subject matter of the present invention to differentiate the present invention from these references, and the other references cited in the Office Action.. Specifically, Applicants concede that the prior promotional evaluation tools existed, as indicated by Cunningham, and that the multiplicative and attractive statistical models for evaluating market response to promotions were also known prior to the filing of the application for the present invention. However, Applicants believe that the present invention is patentable over these references for at least the following reasons, as embodied in the claims. The present invention is a computer software tool and implemented method for evaluating prior transactional data, including transactions involving competing products sold by the same vendor and competitors. These competing goods are automatically determined, as well as automatically identifying

statistically relevant time periods and purchasers. The present invention then evaluates the historical transaction data in view of the these market classifications of goods, purchasers, and time period, to dynamically determine a statistical model, either multiplicative, attractive, or variations thereof, to analyze the transaction data to analyze a proposed promotion scheme. It should be appreciated that either the attractive model or multiplicative model may produce a superior analysis depending on the features and characteristics of the data, as described in FIGS. 6A-6B and the associated text. All of the independent claims have been amended to include this feature of dynamic selection of either an attractive or multiplicative models. Applicants urge that nothing in the cited reference suggests this feature, nor would the cited references provide present invention's benefit of selecting an appropriate model as needed to achieve superior accuracy. Of the cited references, only Ouimet discussing opting between different models, but Ouimet is not discussing Market Share models, but instead addresses (Col. 4, 1.25-Col. 5, 1.11) the use of different types of demand and pricing models. Ouimet is certainly not discussing market performance, but instead consumer perception and product attractiveness. Ouimet could not be used to determine market effects except through secondary tools. For example, Ouimet would provide perceived value changes from promotions, and these value changes could be used in Cunningham to estimate changes in market performance from these perception changes. Ouimet certainly does not address Multiplicative and Attraction Market share models.

Application No. 09/987,706
Amendment dated June 20, 2005
Reply to Office Action of January 18, 2005

In view of the foregoing, the Applicants respectfully request that the Examiner considers the above-noted amendment when the application is examined on its merits and the timely allowance of the pending claims. The Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

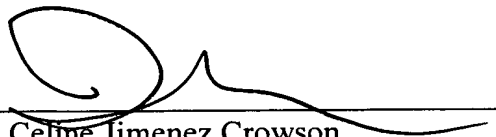
If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1349.

Respectfully submitted,

Dated: June 20, 2005

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Amendments to the Drawings:

The attached drawing sheets include changes to Fig. 4 and Fig. 6A and replace, respectively, the original sheets 6 and 8 of 16. In the amended Fig. 4, previously omitted element 440 has been added, and support for this addition can be found in the paragraph beginning at line 6 of page 10. Likewise, Amended FIG. 6A adds description to boxes 660 and 670 so as to differentiate these two decision steps, and support for this addition can be found in the paragraph beginning at line 17 of page 11.

Attachment: Annotated Sheets Showing Changes to FIGS. 4 and 6A
Replacement Sheets for FIGS. 4 and 6A



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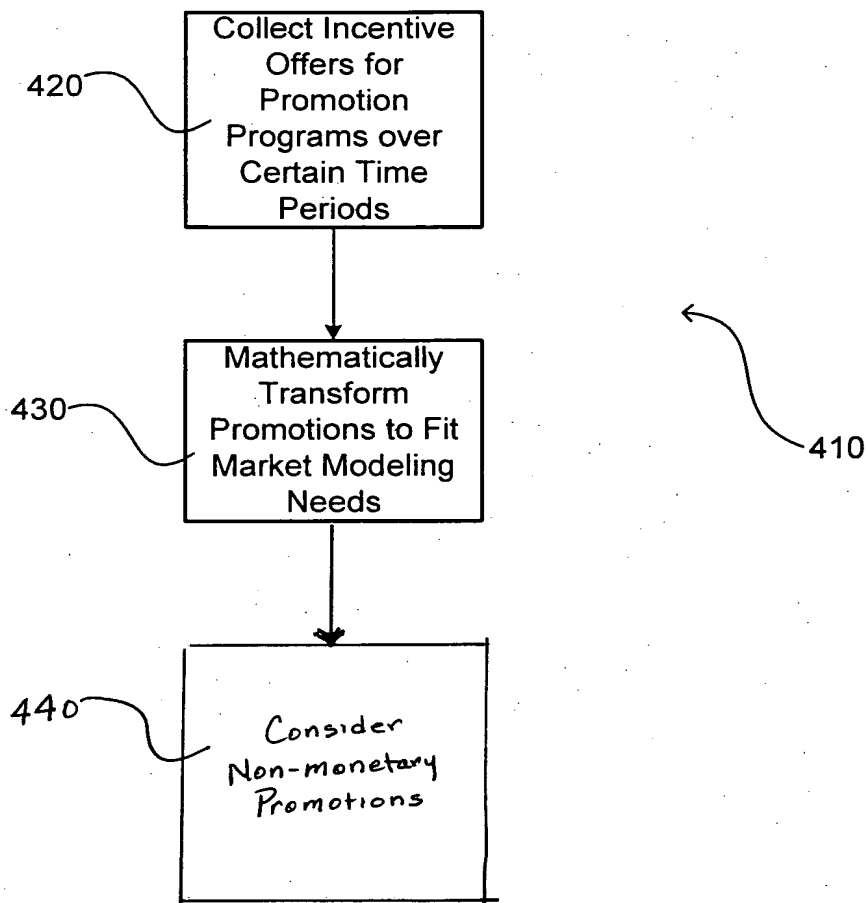


FIG. 4



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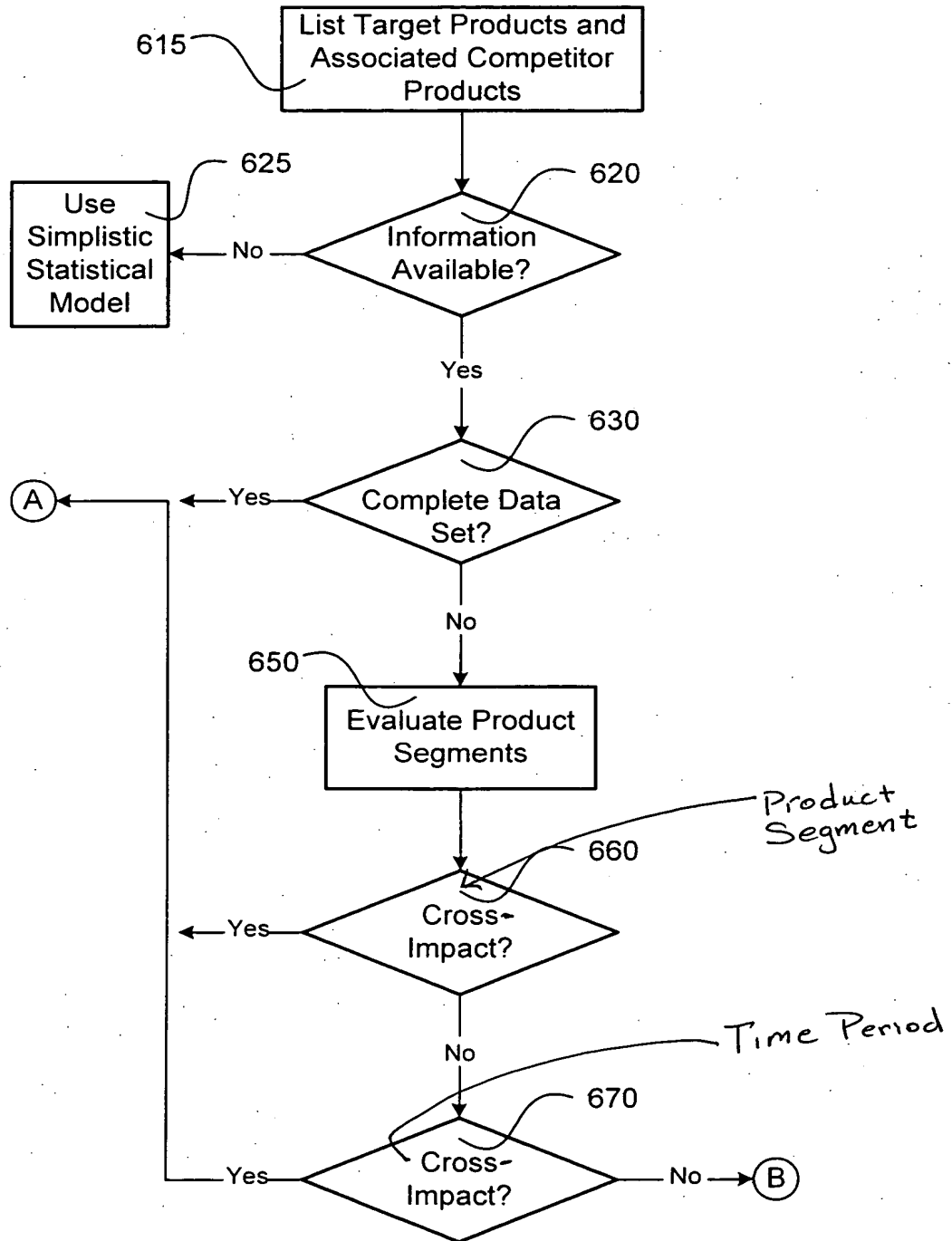


FIG. 6A